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**STATEMENT OF**

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**VIOLENCE POLICY CENTER**

**on**

**Oversight Hearing of the Bureau of Alcohol, Tobacco, Firearms  
and Explosives (ATF)—Reforming Licensing and Enforcement  
Authorities**

**Presented to**

**The Subcommittee on Crime, Terrorism and Homeland Security  
of the House Judiciary Committee**

**March 28, 2006**

Good afternoon Mr. Chairman, I am Kristen Rand, legislative director for the Violence Policy Center (VPC). The Violence Policy Center is a non-profit think tank that works to reduce firearm-related death and injury through research, policy development, and advocacy. The VPC is pleased to have the opportunity to address issues related to Federal Firearms License holders (FFLs).

In 1992, the Violence Policy Center released a landmark study of federally licensed firearms dealers. *More Gun Dealers than Gas Stations* detailed the ease with which a Federal Firearms License could be obtained at the time. The basic three-year gun dealer's license could be had for \$30.00 and completion of a simple form. Applicants were barely scrutinized by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The result was more than 245,000 Type I gun dealers in America—far more than the 210,000 gas stations then operating in the United States. The system for issuing licenses was so lax that in 1990 ATF approved applications for two dogs, the *Washington Post* revealed.

But the sheer volume of licensees was only the tip of the iceberg. Unlike ordinary citizens, licensees are: able to buy and sell firearms in interstate commerce and receive firearms via common carrier; able to purchase firearms from wholesalers at discount and in unlimited quantities; and, are exempt from waiting periods, background checks, licensing, or registration requirements. In our 1992 study, the VPC documented how FFLs were abusing these privileges to funnel large numbers of guns into the illegal market. One of the most egregious abuses was a Virginia dealer who was supplying guns to criminals in the District of Columbia:

Donald Percival was an FFL who owned two pawn shops in Virginia: Ted's Coin, Guns, Pawnbrokers, and Ted's Coins, Guns,

and Machineguns. In 1988 ATF became aware that Percival and his employees were selling firearms such as MAC-11 assault pistols, 9mm pistols, and inexpensive small-caliber handguns to underage DC residents, including drug dealers. Percival warned buyers that he was required to notify ATF of multiple purchases, something one drug dealer described as "information he needed in his business." The drug dealer said Percival had stated that all he required was a Virginia driver's license or someone with a Virginia driver's license to act as the straw man and "you can come down and get a gun." When a Ted's salesman was asked how to get rid of the serial number on a gun, he replied, "You have to pour acid over the serial number to get it off." Percival also sold numerous guns in straw purchase sales to undercover ATF agents. In 1989, Percival was convicted by a jury of conspiracy and related felony federal firearms violations.

At the time, ATF identified straw purchasing<sup>1</sup> as the preferred method by which weapons were obtained by criminals in the District of Columbia.

This is just one of the myriad examples of dealers abusing the privileges of the license. One infamous example was David Taylor, a Bronx, New York, man who was ultimately indicted by authorities in 1987 in a plot to resell in New York City at least 1,000 handguns he ordered using his FFL and had shipped to his apartment via UPS. The Bronx District Attorney called the case "the most incredible violation of this city's gun laws that I or anyone else has ever heard of." Moreover, because there was no requirement at that time that FFLs comply with state and local licensing laws, Taylor was able to circumvent New York's tough gun laws, prompting the Bronx D.A. to label the federal law "disgraceful."

The Clinton Administration reacted to this "disgraceful" situation by

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<sup>1</sup> A straw purchase is a transaction in which persons who can legally purchase guns acquire them for persons prohibited from gun possession by reason of a felony conviction or other disqualifier.

taking a number of steps to crack down on license abuse. They began aggressively enforcing the statutory requirement that dealers be “engaged in the business” of selling firearms.<sup>2</sup> Although federal law had long contained the requirement that dealers meet a certain level of business activity in order to be eligible for a license, this provision had never been enforced. In addition, the thoroughness of the background check was improved with a new requirement that applicants submit fingerprints and photographs, and more applicants were inspected. These administrative changes were augmented by new statutory requirements in 1994, including an increase in the fee for a three-year license from \$30.00 to \$200.00. Applicants were also required for the first time to certify that their business was not prohibited by state or local law and that the business would comply with all relevant state and local laws within 30 days of license approval.

In addition to these positive changes at the federal level, many localities—including Detroit and New York—began enforcing zoning and other local ordinances prohibiting dealers from operating from residential premises.

The result of these policy changes has been a gradual, yet drastic, reduction in the number of licensees. The Violence Policy Center recently released a study with the most recent numbers. Today there are 54,902 Type I FFLs. Only five states—Alaska, Idaho, Montana, Oregon, and Wyoming—still have more gun dealers than gas stations (a copy of the study, *An Analysis of the Decline in Gun Dealers: 1994 to 2005*, <http://www.vpc.org/studies/dealers.pdf>, has been submitted for inclusion in the record).

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<sup>2</sup> See 18 U.S.C. § 921 (a)(21) and §923 ((d)(1)(E).

The Government Accountability Office (GOA) analyzed the reasons for the decline and found that the policy changes made during the 1990s resulted in fewer applications being submitted and fewer renewals of existing licenses. The GAO also found that the number of licenses that were abandoned or withdrawn far exceeded the number of licenses denied or revoked.<sup>3</sup> In fact, ATF very seldom revokes a license. The VPC's 1992 study documented 15 years of license revocations, from 1975 through 1990. In 1990, nine licenses were revoked. In 1975, ATF revoked seven licenses. The high during the 15-year period was during the Reagan Administration in 1986 when a total of 27 licenses were revoked. The low revocation numbers continue today. In 2002, ATF revoked 30 licenses and the number of revocations increased to 54 in 2003.

The low revocation numbers may be partially the result of a process that provides every advantage to the licensee. Typically, after ATF finds violations, the dealer is warned and provided with the opportunity to remedy any violations long before revocation proceedings are initiated. Moreover, revocation is the agency's only option to punish recalcitrant dealers. The agency has no general authority to suspend a license or to assess civil penalties.

In addition, licensees are afforded generous appeal rights. Licensees have a statutory right to a hearing and may even request that a license revocation be stayed during the hearing process. Although some licensees have complained that the hearing officer is an ATF employee, this is entirely consistent with the Administrative

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<sup>3</sup> GAO Report, *Federal Firearms Licensees: Various Factors Have Contributed to the Decline in the Number of Dealers*, (March 1996).

Procedure Act (APA),<sup>4</sup> the federal statute governing administrative adjudications.

A licensee who does not prevail at the agency hearing has the right to appeal the revocation decision to a United States district court and is entitled to *de novo* review of his claim.<sup>5</sup> The *de novo* standard of review was added to the judicial review provision in 1986 by the National Rifle Association-backed Firearms Owners' Protection Act (FOPA), legislation designed primarily to loosen restrictions on federal firearms licensees. The FOPA also added language that entitles a licensee to submit evidence in court that was not considered at the agency level hearing.

Another FOPA addition provides a huge advantage to a licensee who is the subject of criminal charges where the proceedings are terminated or the defendant is acquitted. This provision prohibits the Attorney General from revoking a license based "in whole or in part on the facts which form the basis of such criminal charges."<sup>6</sup> The Reagan Department of the Treasury opposed this change to the statute pointing out, "Because the burden of proof on the Government is less stringent in civil actions, a civil license denial or revocation proceeding should not depend on the outcome of the criminal case. No constitutional rights are violated by the civil proceeding when the applicant or licensee was previously acquitted of criminal charges."<sup>7</sup>

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<sup>4</sup> 5 U.S.C. §556 (b) provides that the agency, one or more members of the body which comprises the agency, or one or more administrative law judges shall preside at the taking of evidence.

<sup>5</sup> *De novo* review ensures that the claim will be considered anew, the same as if it had not been heard before and as if no decision previously had been rendered. *Ness v. Commissioner*, 954 F.2d 1495, 1497 (9th Cir. 1992). Such review is 'independent.' *Premier v. Fuentes*, 880 F.2d 1096, 1102 (9th Cir. 1989).

<sup>6</sup> 18 U.S.C. § 923(f)(4).

<sup>7</sup> 132 Cong. Rec. H507 (1986) (statement of Rep. Hughes).

There are several benefits to the significant decline in the number of FFLs. A smaller universe of dealers makes it easier for ATF to focus its inspections. ATF has also noted that fewer dealers makes it easier to complete firearm trace requests since it reduces the number of dealers who cannot be located because they have changed residences.

The decline in the number of licensed gun dealers coincided with a very significant drop in overall gun death in America. Gun-related deaths peaked in 1993 at 39,595. In 2003, the latest year for which complete figures are available, there were 30,136 gun-related deaths.

But the fact that FFLs are difficult to revoke and licensees' rights are so well protected may help explain why straw purchases continue to contribute significantly to illegal gun trafficking, despite the decline in the number of licensed dealers. In its June 2000 report detailing 1,530 criminal gun trafficking investigations, ATF identified straw purchasing as "the most common channel in trafficking investigations"—with straw purchasing involved in almost half of all trafficking investigations. The report also found that because licensed dealers have access to large numbers of firearms, corrupt FFLs diverted the highest volume of guns into the illegal market. Moreover, where FFLs cooperated with straw purchasers and straw- purchasing rings, the average number of firearms trafficked per investigation was 114.8 compared to 32.8 in cases where there was no FFL involvement.

Recent straw purchasing prosecutions include the following:

- In 2006, seven people were indicted in Philadelphia for using straw purchases to obtain guns, including an AK-47 assault rifle, they used in robberies at banks and fast-food

restaurants and to shoot at a police officer.<sup>8</sup>

- In 2005, two FFLs in Fairmont, West Virginia, were indicted for facilitating straw purchases at two pawn shops.<sup>9</sup>
- In 2004, two FFLs in Manassas, Virginia, were arrested for facilitating straw purchases of various types of guns over a two-year period. One of the dealers was recorded telling an informant that he knew that what he was doing was wrong.<sup>10</sup>
- In 2004, a woman pleaded guilty to purchasing two semiautomatic handguns—one of which was used in the slaying of a three-year-old child—for felons from Don's Guns in Indianapolis. The woman was arrested as part of a federal gun trafficking investigation that involved the straw purchase of at least 28 guns from Don's Guns.<sup>11</sup>
- In 2003, the owner of a Pennsylvania gun shop and his father were sentenced to prison terms for supplying guns to a straw purchaser.<sup>12</sup>

The steep decline in licensed gun dealers in America is one of the unsung victories in the effort to prevent firearm-related violence and

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<sup>8</sup> Vernon Clark, "Seven charged in gun-buying, robbery spree: Weapons obtained illegally through "straw buyers," were used to rob banks, local and U.S. officials said," *The Philadelphia Inquirer*, February 9, 2006, p. B03.

<sup>9</sup> *Associated Press*, "Five charged in illegal gun sales," March 2, 2005, State and Regional.

<sup>10</sup> Josh White and Jerry Markon, "2 Manassas Gun Dealers Charged; Weapons Sold to Felons and for Use in Crimes, ATF Says," *Washington Post*, March 18, 2004, Prince William Extra, T02.

<sup>11</sup> Fred Kelly, "Woman admits buying 2 pistols on behalf of felons," *The Indianapolis Star*, March 11, 2004, p. 3B.

<sup>12</sup> *Associated Press*, "News in brief from western Pennsylvania," March 22, 2003, State and Regional.



protect public safety. The gun lobby is desperate to reverse this decline. They have, in fact, succeeded in inserting a provision in ATF's annual spending bills for fiscal years 2005 and 2006 that prohibits ATF from refusing to grant or renew a dealer's license for "lack of business activity." In order to continue in the right direction, ATF needs more resources to monitor dealers' operations and identify the "bad apple" dealers whose licenses should be revoked. The agency needs more flexibility to punish corrupt dealers, such as the authority to suspend licenses and assess civil penalties.

Let's not go back to the days when America had more gun dealers than gas stations.



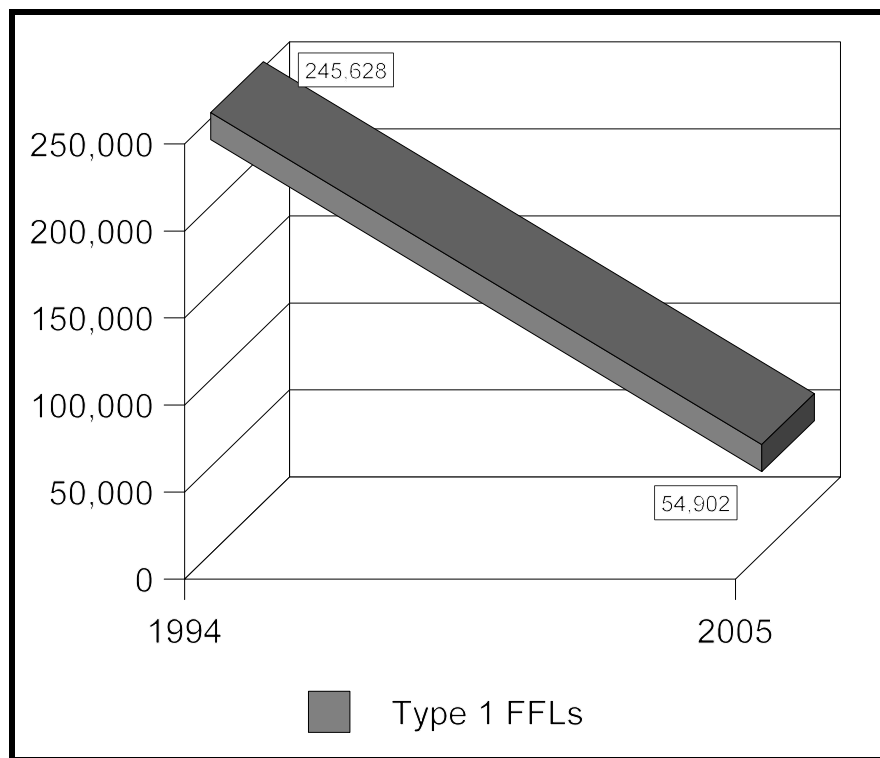
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# An Analysis of the Decline in Gun Dealers: 1994 to 2005

America once had more gun dealers than gas stations,  
now only five states do.



**The Violence Policy Center** (VPC) is a national non-profit educational organization that conducts research and public education on violence in America and provides information and analysis to policymakers, journalists, advocates, and the general public. This report was funded in part with the support of The Herb Block Foundation, The David Bohnett Foundation, The Joyce Foundation, and, The John D. and Catherine T. MacArthur Foundation. Past studies released by the VPC include:

- *When Men Murder Women: An Analysis of 2003 Homicide Data* (September 2005)
- *Clear and Present Danger: National Security Experts Warn About the Danger of Unrestricted Sales of 50 Caliber Anti-Armor Sniper Rifles to Civilians* (July 2005)
- *Safe At Home: How D.C.'s Gun Laws Save Children's Lives* (July 2005)
- *When Men Murder Women: An Analysis of 2002 Homicide Data* (September 2004)
- *The Threat Posed to Helicopters by 50 Caliber Anti-Armor Sniper Rifles* (August 2004)
- *United States of Assault Weapons: Gunmakers Evading the Federal Assault Weapons Ban* (July 2004)
- *Vest Buster: The .500 Smith & Wesson Magnum—The Gun Industry's Latest Challenge to Law Enforcement Body Armor* (June 2004)
- *A Further Examination of Data Contained in the Study "On Target" Regarding Effects of the 1994 Federal Assault Weapons Ban* (April 2004)
- *Really Big Guns: Even Bigger Lies* (March 2004)
- *Illinois: Land of Post-Ban Assault Weapons* (March 2004)
- *Bullet Hoses—Semiautomatic Assault Weapons: What Are They? What's So Bad About Them?* (May 2003)
- *"Officer Down"—Assault Weapons and the War on Law Enforcement* (May 2003)
- *Firearms Production in America 2002 Edition—A Listing of Firearm Manufacturers in America with Production Histories Broken Out by Firearm Type and Caliber* (March 2003)
- *"Just Like Bird Hunting"—The Threat to Civil Aviation from 50 Caliber Sniper Rifles* (January 2003)
- *Sitting Ducks—The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (August 2002)
- *License to Kill IV: More Guns, More Crime* (June 2002)
- *American Roulette: The Untold Story of Murder-Suicide in the United States* (April 2002)
- *The U.S. Gun Industry and Others Unknown—Evidence Debunking the Gun Industry's Claim that Osama bin Laden Got His 50 Caliber Sniper Rifles from the U.S. Afghan-Aid Program* (February 2002)
- *"A .22 for Christmas"—How the Gun Industry Designs and Markets Firearms for Children and Youth* (December 2001)
- *Kids in the Line of Fire: Children, Handguns, and Homicide* (November 2001)
- *Unintended Consequences: Pro-Handgun Experts Prove That Handguns Are a Dangerous Choice For Self-Defense* (November 2001)
- *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* (October 2001)
- *Shot Full of Holes: Deconstructing John Ashcroft's Second Amendment* (July 2001)
- *Hispanics and Firearms Violence* (May 2001)
- *Where'd They Get Their Guns?—An Analysis of the Firearms Used in High-Profile Shootings, 1963 to 2001* (April 2001)
- *A Deadly Myth: Women, Handguns, and Self-Defense* (January 2001)
- *Handgun Licensing and Registration: What it Can and Cannot Do* (September 2000)
- *Pocket Rockets: The Gun Industry's Sale of Increased Killing Power* (July 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)

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## Introduction

The number of federally licensed gun dealers in the United States has dropped dramatically as a result of licensing reforms implemented during the Clinton Administration, combined with changes to the law made by the 1993 Brady Handgun Violence Prevention Act (the “Brady Law”) and the 1994 Violent Crime Control and Law Enforcement Act. From 1994 to 2005, the number of Type 1 Federal Firearms License (FFL) holders has fallen 78 percent as a result of the enforcement of little-known provisions of these laws.

This report examines the causes and importance of the drop in gun dealers, reveals new efforts by the gun lobby to reverse the decline, and offers recommendations to build on the successful efforts of the last decade to keep the number of gun dealers at a manageable level.

### 1992: When There Were More Gun Dealers Than Gas Stations

In 1992 the Violence Policy Center (VPC) released *More Gun Dealers Than Gas Stations*, a study which focused national attention on abuses of the law by FFL holders as well as lack of enforcement by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The study revealed that, at the time of its release, the number of Americans who possessed a Type 1 FFL—the basic federal license required to sell guns in America—outnumbered gas stations 245,000 to 210,000.<sup>1</sup>

The Gun Control Act of 1968 (GCA) established the current federal licensing system for manufacturers, importers, wholesalers, and dealers of firearms. Under the GCA, any person “engaged in the business” of making or selling firearms must be licensed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives.<sup>a</sup>

From 1968 to 1993, almost anyone who was not prohibited from owning firearms and had a location from which they intended to conduct business—including their own home or office—could obtain an FFL. For \$30 an applicant could receive the three-year license, allowing him to ship, transport, and receive firearms in interstate commerce and engage in retail sales. License holders are exempt from many of the restrictions on the sale and transfer of firearms that private citizens are subject to under the GCA. Unlike ordinary citizens, licensees are:

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<sup>a</sup> “Engaged in the business” is generally defined as devoting “time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms....” 18 USC §921(a)(21). Until recent Congressional action, a person desiring a license had to conduct this level of activity to be eligible to maintain and renew a license.

- able to buy and sell firearms in interstate commerce and receive firearms via common carrier;
- able to purchase firearms from wholesalers at discount and in unlimited quantities; and,
- exempt from waiting periods, background checks, licensing, or registration requirements.

In 1986, Congress passed the National Rifle Association-backed Firearms Owners' Protection Act, which further eased regulation of licensees and placed restrictions on ATF's ability to weed out illegitimate gun dealers.<sup>b</sup>

FFLs are a key source of guns for illegal gun traffickers and a reduction in ATF's ability to monitor FFLs would certainly result in an increase in illicit firearm availability.

### **"Kitchen-Table" Dealers**

As a result of the lax requirements for becoming a firearms dealer, the number of Type 1 FFLs ballooned from 146,429 in 1975 to 245,000 in 1992. The vast majority of these license holders were what is known as "kitchen-table" dealers—individuals who conduct business out of their homes and offices and do not operate actual gun or sporting goods stores. And while many "kitchen-table" dealers obtained the license merely to enjoy lower prices and evade the perceived "red tape" associated with gun purchase laws, others recognized it as a dramatic loophole in federal law that could be easily exploited to facilitate high-volume criminal gun trafficking.

### **Licensing Reforms**

In response to the widespread abuse of FFLs and at the urging of the Violence Policy Center, the Clinton administration began strictly enforcing the requirement that license holders be "engaged in the business" of selling firearms as required by the statute. In addition, the Brady Law implemented many of the recommendations the VPC laid out in its 1992 study, including: increasing the dealer licensing fee from \$10 per year to \$200 for the first three years and \$90 for each additional three-year

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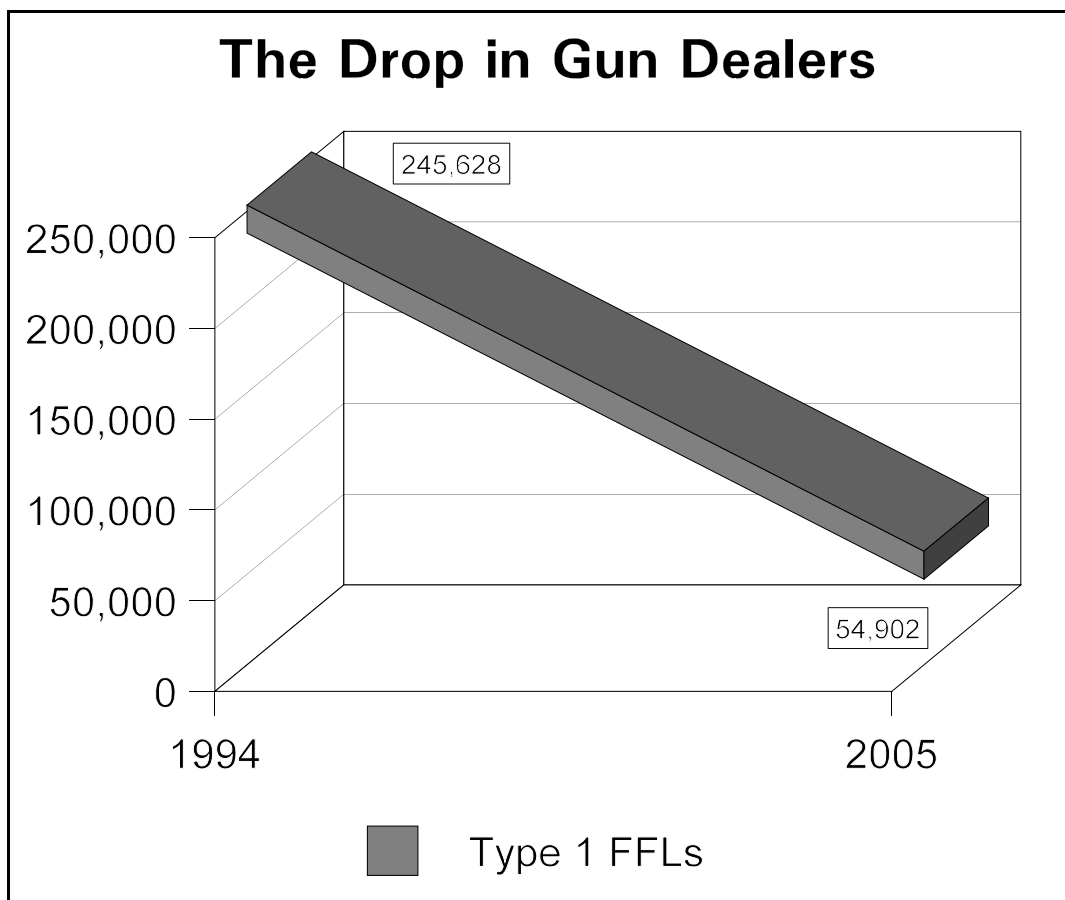
<sup>b</sup> The Firearms Owners' Protection Act curtailed ATF enforcement activity by: limiting ATF to one unannounced dealer inspection per year; reducing recordkeeping requirements for dealers selling guns from their "personal" collections; and, lessening criminal penalties for dealer violations.

period; and, requiring applicants to certify that they have notified the Chief Law Enforcement Officer (CLEO) of their locality of their intent to apply for a license. In 1994, the Violent Crime Control and Law Enforcement Act codified a requirement first implemented by the Clinton Administration requiring applicants to submit photographs and fingerprints, as well as a requirement that they certify that their businesses complied with all state and local laws.<sup>2</sup>

In the three years following these administrative and statutory changes, the eligibility of existing FFL holders was reviewed as licensees applied for renewal of their licenses. FFL holders were required to submit new application packages with photographs and fingerprints, and ATF worked with state and local authorities to verify that licensees were in compliance with local laws and had notified their local CLEO.<sup>3</sup>

### The Drop in Gun Dealers

As a result of the new licensing requirements and ATF's increased scrutiny of licensees, the number of Type 1 FFLs in the United States has dropped 78 percent—from 245,628 in 1994 to 54,902 in 2005. California leads the nation with a 17,710 reduction in dealers, declining from 20,148 to 2,438—a decrease of 88 percent.<sup>4</sup>



**Number and Percent Decrease of Type 1 FFLs,  
1994 to 2005**

<b>State</b>	<b>Total of Type 1 Federal Firearms License (FFL) Holders, 1994</b>	<b>Total of Type 1 Federal Firearms License (FFL) Holders, 2003</b>	<b>Total of Type 1 Federal Firearms License (FFL) Holders, 2005</b>	<b>Number Decrease From 1994 to 2005</b>	<b>Percent Decrease From 1994 to 2005</b>
Alabama	3,235	832	776	2,459	76%
Alaska	3,137	905	844	2,293	73%
Arizona	4,178	1,098	1,127	3,051	73%
Arkansas	3,096	775	771	2,325	75%
California	20,148	2,842	2,438	17,710	88%
Colorado	4,248	1,189	1,158	3,090	73%
Connecticut	3,334	546	508	2,826	85%
Delaware	507	114	116	391	77%
Florida	9,970	1,721	1,451	8,519	85%
Georgia	5,589	1,272	1,158	4,431	79%
Hawaii	820	110	101	719	88%
Idaho	2,295	708	682	1,613	70%
Illinois	8,959	2,120	1,948	7,011	78%
Indiana	5,872	1,546	1,379	4,493	77%
Iowa	3,877	1,247	1,206	2,671	69%
Kansas	3,653	995	942	2,711	74%
Kentucky	4,679	1,111	1,060	3,619	77%
Louisiana	4,864	1,058	988	3,876	80%
Maine	2,189	516	499	1,690	77%
Maryland	3,232	579	543	2,689	83%
Massachusetts	3,851	621	556	3,295	86%
Michigan	12,076	2,713	2,597	9,479	78%
Minnesota	5,741	1,713	1,601	4,140	72%
Mississippi	3,080	848	760	2,320	75%

State	Total of Type 1 Federal Firearms License (FFL) Holders, 1994	Total of Type 1 Federal Firearms License (FFL) Holders, 2003	Total of Type 1 Federal Firearms License (FFL) Holders, 2005	Number Decrease From 1994 to 2005	Percent Decrease From 1994 to 2005
Missouri	7,624	2,050	1,981	5,643	74%
Montana	3,058	1,073	1,017	2,041	67%
Nebraska	2,688	710	665	2,023	75%
Nevada	1,952	451	458	1,494	77%
New Hampshire	1,565	490	471	1,094	70%
New Jersey	1,645	378	337	1,308	80%
New Mexico	1,909	590	565	1,344	70%
New York	9,726	2,231	2,037	7,689	79%
North Carolina	6,466	1,505	1,400	5,066	78%
North Dakota	1,619	460	439	1,180	73%
Ohio	9,464	2,544	2,371	7,093	75%
Oklahoma	4,024	1,030	1,009	3,015	75%
Oregon	4,995	1,563	1,479	3,516	70%
Pennsylvania	11,799	3,004	2,765	9,034	77%
Rhode Island	567	109	105	462	81%
South Carolina	2,332	580	550	1,782	76%
South Dakota	1,537	448	431	1,106	72%
Tennessee	4,736	1,221	1,136	3,600	76%
Texas	18,041	4,321	4,261	13,780	76%
Utah	2,113	575	572	1,541	73%
Vermont	1,556	382	367	1,189	76%
Virginia	6,942	1,564	1,458	5,484	79%
Washington	5,724	1,007	904	4,820	84%
West Virginia	3,234	839	797	2,437	75%
Wisconsin	5,953	1,642	1,568	4,385	74%
Wyoming	1,729	574	550	1,179	68%
Total	245,628	58,520	54,902	190,726	78%



As the number of dealers in the United States has dropped, the percentage of “kitchen-table” dealers has also fallen. In 1998, 56 percent of Type 1 FFLs operated out of residential premises, down from 74 percent in 1992.<sup>5</sup> Despite these dramatic declines, five states still have more gun dealers than gas stations (Alaska, Idaho, Montana, Oregon, and Wyoming). In some cases, substantially more. For example, Alaska has more than three times as many gun dealers as gas stations.

### **Five States Still Have More Gun Dealers Than Gas Stations**

<b>State</b>	<b>Number of Gun Dealers</b>	<b>Number of Gas Stations</b>
Alabama	776	2,978
Alaska	844	229
Arizona	1,127	1,866
Arkansas	771	1,695
California	2,438	8,250
Colorado	1,158	1,726
Connecticut	508	1,219
Delaware	116	312
Florida	1,451	6,544
Georgia	1,158	4,695
Hawaii	101	324
Idaho	682	663
Illinois	1,948	4,153
Indiana	1,379	2,904
Iowa	1,206	1,997
Kansas	942	1,464
Kentucky	1,060	2,443
Louisiana	988	2,545
Maine	499	893
Maryland	543	1,735
Massachusetts	556	2,333
Michigan	2,597	4,201
Minnesota	1,601	2,605

State	Number of Gun Dealers	Number of Gas Stations
Mississippi	760	2,009
Missouri	1,981	3,136
Montana	1,017	597
Nebraska	665	1,116
Nevada	458	671
New Hampshire	471	624
New Jersey	337	2,749
New Mexico	565	958
New York	2,037	5,447
North Carolina	1,400	4,818
North Dakota	439	496
Ohio	2,371	4,460
Oklahoma	1,009	2,020
Oregon	1,479	1,146
Pennsylvania	2,765	4,476
Rhode Island	105	393
South Carolina	550	2,476
South Dakota	431	678
Tennessee	1,136	3,339
Texas	4,261	10,610
Utah	572	884
Vermont	367	479
Virginia	1,458	3,623
Washington	904	2,104
West Virginia	797	1,212
Wisconsin	1,568	2,667
Wyoming	550	401
U.S. Total	54,902	121,363

**Source:** 2002 Economic Census, Geographic Area Series, Retail Trade, U.S. Census Bureau, August 18, 2005. Includes gas stations and gas stations with convenience stores.

## Conclusion: What Next?

Even with a national drop of 78 percent in the number of gun dealers, FFLs—both “kitchen-table” and stocking dealers—are still a key supplier of guns to criminals. As noted earlier, up to 56 percent of FFLs *still* operate out of residential premises. Thirty-one percent of FFLs had not sold a single firearm in the previous year, a disturbingly high percentage for a class of people who purport to be “engaged in the business” of selling firearms.<sup>6</sup> Exacerbating this problem, in the most recent appropriations bills, Congress prohibited ATF from denying the renewal of an applicant’s license because of “a lack of business activity.”<sup>c</sup>

While at first glance it may seem that an FFL holder who sells few if any firearms is not a threat to public safety, it must be remembered that this reflects only sales reported to ATF. Many sales by “kitchen-table” and corrupt stocking dealers take place “off the books” without the licensee logging the guns into their firearms acquisition book or confirming the identity of the purchaser as required by law.

In the June 2000 report on illegal gun trafficking *Following the Gun*, ATF noted:

Although FFL traffickers were involved in the smallest proportion of ATF trafficking investigations, under 10 percent, cases involving FFL traffickers were associated with the largest total number of illegally diverted firearms, over 40,000, as compared to the other trafficking channels.<sup>7</sup>

“Kitchen-table” dealers remain a source for criminal gun traffickers. In *Following the Gun*, ATF analyzed a random sample of their FFL trafficking investigations and found that nearly a quarter (23 percent) of these investigations involved “kitchen-table” dealers.<sup>8</sup>

The Violence Policy Center recommends the following actions:

- All federally licensed firearms dealers should be required to operate from a storefront business, not a residence. Licenses should be limited to businesses devoted primarily to the sale of firearms. Gun shops should be conspicuously identified to the public as such. This will reduce the number of dealers ATF must monitor.
- ATF should have the authority to suspend a dealer’s license or assess civil penalties—in addition to revocation authority—when a dealer violates the law.

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<sup>c</sup> Public Law 108-447 (HR) 4818; Public Law 109-108 (HR) 2862.

- ATF's ability to inspect a licensee's premises to ensure compliance with recordkeeping and other requirements should be expanded from once a year to at least four times per year.
- The loophole which allows dealers to divert firearms from their business inventory to their "personal collections" and then sell those guns without performing the Brady background check should be eliminated.
- Dealers should be required to safely and securely store their inventories of firearms.
- Local law enforcement agencies and regulators should closely monitor dealers in their areas to ensure that they are in compliance with all applicable local laws including business licensing, zoning, and any pertinent local firearm restrictions such as bans on assault weapons and armor-piercing ammunition.
- Congress should rescind the provision included in ATF's fiscal year 2005 and 2006 spending authorizations prohibiting the agency from denying licenses to persons who do not meet the "engaged in the business" test for business activity.

## Endnotes

1. Josh Sugarmann, *More Gun Dealers Than Gas Stations: A Study of Federally Licensed Firearms Dealers in America* (Washington, DC: Violence Policy Center, 1992): 1.
2. *Commerce in Firearms in the United States* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, February 2000): 13.
3. *Commerce in Firearms in the United States* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, February 2000): 13.
4. Bureau of Alcohol, Tobacco, Firearms and Explosives data compiled April 30, 2005.
5. *Commerce in Firearms in the United States* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, February 2000): 16-17.
6. *Commerce in Firearms in the United States* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, February 2000): 17.
7. *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, June 2000): 41.
8. *Following the Gun: Enforcing Federal Laws Against Firearms Traffickers* (Washington, DC: Bureau of Alcohol, Tobacco and Firearms, June 2000): 16.